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J. G. R.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/154,274 09/16/98 TURI

Z BTG-5001

EXAMINER

QM12/1207

FOLEY AND LARDNER
STE. 500
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WASHINGTON DC 20007-5109

LEWIS, M

ART UNIT

PAPER NUMBER

3731

DATE MAILED:

12/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/154,274

Applicant(s)

Turi

Examiner
William Lewis

Group Art Unit
3731



☒ Responsive to communication(s) filed on Aug 21, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-26, 28-51, 53-72, 74-96, and 98-114 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-21 is/are allowed.

☒ Claim(s) 22-26, 28-30, 36-46, 50, 51, 54, 61, 62, 68-71, 75, 82-92, 96, 98, 99, 100 are rejected.

☒ Claim(s) 31-35, 47-49, 53, 55-60, 63-67, 72, 74, 76-81, 93-95, 100-105, and 108 are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

WILLIAM LEWIS
PATENT EXAMINER
GROUP 3300

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 22-26, 29, 30, 36-44, 50, 51, 54, 61, 62, 68-71, 75, 76, 82-90, 96, 98, 99, 106, 107, 113 and 114 are rejected under 35 U.S.C. 102(b) as being anticipated by Dardik et al. (US Patent 3,974,526). Dardik et al. disclose a graft comprising a tissue (vessels from the umbilical cord) and an expandable member (tubular mesh support, see column 6, lines 5-19) that is attached (sutured) to the tissue.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 45, 46, 91 and 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dardik et al. (US Patent 3,974,526). In the prior art, these techniques of joining are established and well known. To have utilized these techniques on the Dardik et al. device would have been within the level of one of skill and required no undo experimentation. Also, there is no criticality cited in the specification for the use of these techniques.

Allowable Subject Matter

5. Claims 28, 31-35, 47-49, 53, 55-60, 63-67, 72, 74, 77-81, 93-95, 100-105, and 108-112 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 1-21 are allowed.

Response to Arguments

7. Applicant's arguments with respect to claims 1-26, 28-51, 53-72, 74-96 and 98-114 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Lewis whose telephone number is (703) 308-0060.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Recla, can be reached on (703) 308-1382. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590 or 3591.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



**WILLIAM LEWIS
PATENT EXAMINER
GROUP 3300**

WL

November 30, 2000